

**RULES
OF
DEPARTMENT OF REVENUE
INCOME TAX DIVISION**

**CHAPTER 560-7-8
RETURNS AND COLLECTIONS**

TABLE OF CONTENTS

560-7-8-.03 Alternate Method of Determining Income.

560-7-8-.03 Alternate Method of Determining Income.

(1) **Purpose.** The purpose of this regulation is to provide guidance concerning the administration of O.C.G.A. § 48-7-35.

(2) **Application for Permission to use Another Method.**

(a) O.C.G.A. § 48-7-35 provides that if any corporation or nonresident shows by any method of allocation other than the processes or formulas prescribed by Chapter 7 of Title 48 that another method reflects more clearly the income attributable to the trade or business within Georgia, application for permission to base its return upon the other method shall be considered by the Commissioner.

(b) The application shall be accompanied by a statement setting forth in detail with full explanations the method the corporation or nonresident believes will more clearly reflect its income from trade or business within Georgia. If the commissioner concludes that the method submitted by the corporation or nonresident is in fact inapplicable and inequitable, he or she shall reject the application and shall so notify the corporation or nonresident. Failure to receive the commissioner's

notice shall not operate to relieve the corporation or nonresident from liability for not filing the return on its due date utilizing the method prescribed by Chapter 7 of Title 48.

(c) Corporations or nonresidents that wish to request such permission from the Commissioner shall file an application, petition, or request with the Commissioner at least ninety (90) days prior to the due date of the Georgia return (including extensions) or at least ninety (90) days prior to the filing of the return, whichever occurs first, for the tax year for which such application is requested. Failure to request permission by such time will result in the filing of an income tax return subject to the regular method for the applicable tax year.

(d) The Commissioner will find that the method is in fact inapplicable and inequitable unless:

1. Unusual fact patterns occur that are unique and which will produce incongruous results based upon standard allocation and apportionment provisions; and
2. The corporation or nonresident establishes by clear and convincing evidence that the corporation's or nonresident's proposed method would more clearly reflect the income from trade or business within Georgia.

Authority: O.C.G.A. §§ 48-2-12 and 48-7-35.